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C O N F I D E N T I A L SECTION 01 OF 03 LISBON 000874

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TAGS: [PTER](#) [PGOV](#) [PREL](#) [PO](#)  
SUBJECT: PORTUGAL STRENGTHENS ITS COUNTERTERRORISM TOOLS

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Reasons 1.4 (b) and (d)

#### Summary

1. (C) Portugal has faced a lower threat profile than nearby European nations despite its proximity to past terrorism targets like Spain, the UK, and Morocco. Nevertheless, the government of Portugal (GOP) has heeded the warnings from the attacks in London in 2005 and Madrid in 2004 by enhancing cross-border cooperation, and by updating counterterrorism legislation. The Portuguese Judicial Police (PJ), which has the lead on all counterterrorism law enforcement action, can now use most of the tools available to U.S. authorities, although the Portuguese constitution forbids GOP monitoring of correspondence and data. In advance of the 2009 opportunity to review the constitution, the public debate has become increasingly vocal over whether the current terrorist threat requires adjustments to legislative privacy protections. End summary.

#### Scope of the Threat and Specific Response

2. (C) Portugal has not faced a home-grown terrorist threat since the mid-80s. Over the last several years, however, Portuguese officials have uncovered evidence that known associates of terrorists both from Basque separatist group ETA and al-Qaida have operated within Portugal. Recent examples include:

-- Al-Qaida: In 2007 and 2008, al-Qaida began to include Portugal in its public list of targets, along with the UK, France, and Spain. Judicial Police (Policia Judicial -- PJ) inspectors arrested one suspected al-Qaida associate, Samir Boussaha, in cooperation with an Italian investigation in November 2007 and deported him to Italy to face charges. In early January, the PJ investigated reports that two unidentified Pakistani nationals were planning attacks against Lisbon's public transportation system.

-- ETA: Recent arrests and activity indicate that ETA uses Portugal for rest and possibly as a logistics source to support attacks against Spain. The GOP and Spanish governments announced in October 2007 the creation of joint investigation teams to combat ETA activity in Portugal after police located 285 lbs of explosives in the Spanish-Portuguese border town of Ayamonte.

-- GZ Galician Resistance: According to an April 2007 Europol report, Galician separatist groups are using northern Portugal, particularly in the Minho Region, as an operating base to launch attacks into Spain. The group attracted attention in 2006 when the PJ located 26 home-made bombs and separatist propaganda in a home near Braga, Portugal.

3. (C) Terrorism rarely makes Portuguese media headlines and

GOP officials have noted privately that, although they take the threat seriously, they also intentionally keep the GOP's response low profile. Ministry of Internal Affairs Director General for Counterterrorism Rita Faden told us that the GOP's philosophy was to work determinedly on counterterrorism efforts behind the scenes while appearing carefree "like a duck." She stressed that the GOP does it in part to ensure that the public doesn't panic or get an exaggerated sense of the threat. Likewise, MFA Multilateral Affairs Director Helena Paiva confided to us that Portugal, during its EU presidency in the latter half of 2007, had focused on buttressing intergovernmental counterterrorism cooperation, but that raising public awareness had not been a priority. Although we do not have polling data on ordinary citizens' views of the terrorist threat, anecdotal evidence suggests that terrorism is not an issue that resonates much with the Portuguese public.

#### Law Enforcement Efforts

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¶4. (U) Portugal's FBI-equivalent, the Judicial Police (PJ), is responsible for investigating and responding to any suspected terrorist activity or terrorist organization operating nationally, according to Decree Law 101/2001. In fact, any criminal investigation that uncovers a terrorist connection is immediately passed to the PJ for action. The PJ is authorized to investigate, conduct searches and seizures, arrest, detain, use wiretaps, and enter the home of a suspected terrorist.

¶5. (U) The revised Internal Security Law, approved on September 28, 2007, authorizes new measures for the police to use against "violent disruptions in the public order" without

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prior court approval:

- Temporarily halt the circulation of people and access to local transport;
- Disrupt radio transmissions, both public and private, and ban telephone service in select areas;
- Temporarily close commercial or otherwise public establishments for safety concerns;
- Search individuals in public locations for weapons, explosives, or forbidden objects that could be used in violent acts or deprive others of their freedom;
- Remove objects that impede or hinder safety and free circulation in public locations.

¶6. (SBU) Key law enforcement and intelligence agencies such as the PJ, the Intelligence and Security Service (SIS), Border and Immigration Police (SEF), the Public Security Police (PSP) and the National Republican Guard (GNR) meet regularly to exchange information about the latest terrorist threats. According to SEF Inspector Fatima Silva, the law enforcement entities held weekly meetings while Portugal hosted the 2004 Eurocup. Officials also used the meetings to disseminate information during Portugal's EU presidency term in 2007 and continue to meet in 2008, albeit with less frequency. Although these meetings improve communication, the PJ has ultimate responsibility for GOP counterterrorism efforts. The legislative revisions approved in September 2007, however, gives the GOP some flexibility in responding to terrorist attacks. For instance, the Portuguese Prime Minister can delegate operational control of the government counterterrorism infrastructure to the Secretary General of Internal Security in the case of a catastrophic event.

#### Legal Constraints

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¶7. (SBU) Although Portugal approves the use of most counterterrorism measures used in other countries, some legal restrictions remain in place. After the 1974 revolution, which overthrew the Portuguese dictatorship and put the

country on a democratic path, the Portuguese constitution was amended to prevent security forces from conducting night searches and monitoring citizens' private communication. Consequently, the national constitution prohibits some counterterrorism and intelligence-gathering practices used elsewhere.

¶18. (U) For example, Article 34 in the constitution states that an individual's home and privacy of correspondence and other means of private communication are inviolable. This provision prohibits the intelligence services from using wiretaps -- the only EU member state to do so -- and requires that police-instigated wiretaps and searches be authorized by a court in advance. In addition, the article states that no one may enter the home of any person at night (from 9 pm to 7 am) without his or her consent. This provision was modified by the Criminal Penal Procedure of October 2007, which allows exceptions for searches of a residence at night, with a warrant, if the search is to prevent terrorism, violent crimes, or organized crime. Article 35 of the constitution prohibits "access to personal data by third parties... except for exceptional cases as prescribed by law." It goes on to say that evidence obtained by any violation of privacy, the home, correspondence, or telecommunications without the consent of the interested party is null and void. The Portuguese courts, therefore, are inclined to limit monitoring and searches of correspondence to cases with narrowly-defined parameters, although we understand law enforcement agencies in many other EU nations have the legal authority to search e-mail or other communication to prevent terrorist attacks.

Making a Change?

¶19. (U) The 2006 and 2007 laws have provided GOP authorities with additional tools, but some in law enforcement and the intelligence services view the constitutional provisions as obstacles to effective counterterrorism efforts. The Portuguese constitution can be reviewed and amended every five years, and the next regular review will occur in 2009. Recent terrorist attacks in Europe as well as arrests made by the PJ in 2007 have sparked debate among government officials and the intelligentsia over whether to further expand the powers of the state and about the appropriate balance between privacy and counterterrorism efforts.

Comment

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¶10. (C) Portugal's current response to the terrorist threat, even with the current constitutional constraints, has proven generally successful in locating terrorist suspects and associates, cooperating internationally, and impeding terrorist support networks. Portugal's government is willing to implement additional legislation to address new vulnerabilities however, given the GOP's low-key response, the public remains psychologically unprepared for terrorist activity. In advance of the 2009 constitutional revision window, debate among counterterrorism experts and civil liberties groups will likely intensify over whether to revise the two articles that prohibit government access to personal correspondence and data. End comment.  
Stephenson